

EXHIBIT 5

DECLARATION OF SCOTT PHILLIPS

I, Scott Phillips, declare that:

1. I am an Associate Professor in the Department of Sociology and Criminology at the University of Denver. I have spent several years studying the application of the death penalty in Texas. A copy of my curriculum vitae is attached.

2. Julius Robinson's attorneys asked me to conduct a statistical analysis regarding the possible effect of race on the federal death penalty in Texas.

3. I based my study on a compilation of raw data collected by Kevin McNally, the Director of the Federal Death Penalty Resource Counsel Project (FDPRCF). McNally is an attorney who has served as resource counsel at FDPRCF since its inception in 1992. Funded by the Defender Services Division of the Administrative Office of the United States Courts, the mission of the FDPRCF is to assist, advise, and consult with court-appointed and defender attorneys engaged in the defense of capital cases in the federal courts throughout the United States. The Subcommittee on Federal Death Penalty Cases of the Committee on Defender Services of the Judicial Conference of the United States (U.S. Judicial Conference Subcommittee) has described the work of the FDPRCF as "essential to

the delivery of high quality, cost-effective representation in death penalty cases.”¹

In the course of his duties, McNally monitors all potential federal capital prosecutions throughout the United States. McNally has collected information on the cases of all criminal defendants in Texas who were eligible for a federal death sentence from the reinstatement of the federal death penalty in 1988 through 2010.²

Race of the defendant is one factor which McNally and the FDPRCP have collected and recorded on the 172 defendants in Texas who were eligible for a federal death sentence.

4. For decades, scholars have demonstrated that race influences the administration of the death penalty in the United States.³ My analysis of all

¹ U.S. Judicial Conference Subcommittee, *Federal Death Penalty Cases: Recommendations Concerning the Cost and Quality of Defense Representation* 50 (May 1998).

² See 21 U.S.C. § 848(e) *et seq.* and the “Federal Death Penalty Act of 1994” or Violent Crime Control and Law Enforcement Act of 1994, Pub.L.No. 103-322, 108 Stat. 1796.

³ See David C. Baldus, *Keynote Address: The Death Penalty Dialogue Between Law and Social Science*, 70 Ind. L.J. 1033, 1039-40 (1995); Stephen B. Bright, *Discrimination, Death and Denial: The Tolerance of Racial Discrimination in Infliction of the Death Penalty*, 35 Santa Clara L. Rev. 433, 434 (1995); Erwin Chemerinsky, *Eliminating Discrimination in Administering the Death Penalty: The Need for the Racial Justice Act*, 35 Santa Clara L. Rev. 519, 529 (1995) (“After *McCleskey*, it will be extremely difficult to successfully challenge a death sentence on equal protection grounds. Even though a majority of the Justices on the Supreme Court have recognized that racism seriously infects the capital process, current law simply fails to provide any remedy.”); David C. Baldus & George Woodworth, *Race Discrimination in the Administration of the Death Penalty: An Overview of the Empirical Evidence with Special Emphasis on the Post-1990 Research*, 39 Crim. L. Bull. 194, 214-15 (2003); Scott Phillips, *Racial Disparities in the Capital of Capital Punishment*, 45 Hous. L. Rev. 807, 811-12 (2008) (asserting that the death penalty is more likely to be imposed on black defendants than white defendants).

potential death penalty cases filed in the four federal judicial districts in Texas reveals the same troubling patterns.

5. Federal prosecutors in Texas have requested authorization to seek the death penalty against 32 men and obtained a death verdict in 13 cases. Ten of the 13 men who received the federal death penalty in Texas are black. Thus, while blacks make up 12% of the Texas population, they constitute 77% of all the federal death verdicts within the State of Texas.

6. To understand the nature of the disparities, it is important to examine how race influences each stage of the process: the federal prosecutors' request for authorization to seek the death penalty, the Attorney General's decision to grant authorization (made in consultation with the Capital Case Unit, the centralized U.S. Department of Justice committee that reviews all requests), and the jury's decision to render a death verdict. Notably, the impact of race is amplified across the stages of a case.

7. To begin, federal prosecutors in Texas were almost **six times** more likely to request authorization to seek the death penalty against black defendants (prosecutors requested authorization in 56% of the cases with a black defendant, compared to 10% of the cases with a non-black defendant). Moreover, authorization was almost **eight times** more likely to be granted in cases with black defendants (authorization was granted in 53% of all the cases with a black

defendant, compared to 7% of all the cases with a non-black defendant). Finally, a death verdict was about **sixteen times** more likely to be rendered in cases with black defendants (a death verdict was rendered in 32% of all the cases with a black defendant, compared to 2% of all the cases with a non-black defendant). The relationships in question are statistically significant. See Table 1, Panel A, for details.

8. Because the black defendant in the case under consideration, Julius Robinson, was sentenced to death in the Northern District of Texas, it was also important for me to examine the Northern District separately to see if the same patterns hold true. Here, the racial disparities are interchangeable (and, technically speaking, slightly greater): a death verdict was rendered in 36% of all the cases with a black defendant, compared to 0% of all the cases with a non-black defendant. The relationship in question is statistically significant. See Table 1, Panel B, for details.


9. Typically, the next step in the analysis would be to control for potential confounders in a multivariate logistic regression model. Such a model would reveal whether race-neutral factors can “account for” or “explain” the disparities. However, the United States Department of Justice (DOJ) has declined to share the data necessary to conduct such an analysis.

10. I began the research without any preconceived notions – I had no idea what the analysis would demonstrate. Moreover, I remain more than willing to expand the analysis to include other factors for consideration suggested by the DOJ. I will entertain any challenge to the results, test any rival hypothesis, and conduct all appropriate statistical tests. But to do so the DOJ must provide access to additional information about the cases – information known only to the DOJ.

11. Despite my willingness to expand the statistical analysis if the DOJ provides the necessary information, I am confident that the findings would remain the same. Because the magnitude of the racial disparities is so substantial, controlling for race-neutral explanations in a multivariate logistic regression model would almost certainly not change the overall pattern. It is highly unlikely that a race-neutral factor or factors could explain why black defendants were 16 times more likely to be sentenced to death. The racial disparities are almost surely too extreme to have a benign explanation. Indeed, the racial disparities are the most acute I have seen in my years of research on the subject.

I declare under penalty of perjury that the above information is true and correct to the best of my knowledge.

DATED: March 29, 2011



Scott Phillips
Associate Professor
Chair, Dept. of Sociology and Criminology
Director, Socio-Legal Studies

ATTACHMENT NO. 1

CURRICULUM VITAE

Scott Phillips
March 2012

Department of Sociology and Criminology
University of Denver
2000 East Asbury Avenue
Denver, CO 80208
Scott.Phillips@du.edu
303-871-2059

Education

Ph.D., Sociology, University of Georgia, 2000
M.A., Sociology, Louisiana State University, 1996
B.A., History, Texas Christian University, 1993

Professional Experience

Director, Socio-Legal Studies Program, University of Denver, July 2011-present
Chair, Department of Sociology and Criminology, University of Denver, July 2010-present
Associate Professor, Department of Sociology and Criminology, University of Denver, 2007-present
Assistant Professor, Department of Sociology and Criminology, University of Denver, 2005-2007
Assistant Professor, Department of Sociology, Rice University, 2003-2005
Assistant Professor, Department of Sociology, University of Houston, 2000-2003

Research Interests

Capital Punishment
Conflict Management
Police Use of Force

Awards (selected)

- Winner of 1996 ASA Sociology of Law Graduate Student Paper Competition for paper entitled: "Judicial rhetoric, meaning-making, and the institutionalization of hate crime law" (Master's thesis).
- Winner of 2001 Law and Society Association Article of the Year for paper entitled: "Judicial rhetoric, meaning-making, and the institutionalization of hate crime law" (with Ryken Grattet; Law and Society Review, volume 34).
- Recipient of 2006 University of Denver Campus Life Award

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Articles

- Lin, Jeffrey and Scott Phillips. Forthcoming. "Media coverage of capital murder: Exceptions sustain the rule." Justice Quarterly.
- Phillips, Scott. Forthcoming. "Continued racial disparities in the capital of capital punishment? The Rosenthal era." Houston Law Review 50(1).
- Phillips, Scott and Jacqueline Lapuck. Forthcoming. Social geometry and the success of moral ideas: The case of capital punishment." International Journal of Law, Crime, and Justice.
- Phillips, Scott, Laura Potter, and James E. Coverdill. 2012. "Disentangling victim gender and capital punishment: The role of media." Feminist Criminology 7(2):130-145.
- Phillips, Scott. 2009. "Status disparities in the capital of capital punishment." Law and Society Review 43(4): 807-837.
- Phillips, Scott. 2009. "Legal disparities in the capital of capital punishment." Journal of Criminal Law and Criminology 99(3):717-756.
- Phillips, Scott. 2008. "Racial disparities in the capital of capital punishment." Houston Law Review 45(3):807-840.
 - Reprinted in: Vincent R. Jones and James R. Coldren (eds.). The Death Penalty in Focus: A Special Topics Anthology. San Diego, CA: Cognella, 2011.
- Hagan, Jacqueline and Scott Phillips. 2008. Border blunders: The unanticipated human and economic costs of the U.S. approach to immigration control, 1986-2007. Criminology and Public Policy 7(1):83-94.
- Phillips, Scott and Michael O. Maume. 2007. "Have gun will shoot? Weapon instrumentality, intent, and the violent escalation of conflict." Homicide Studies 11(4):272-294.
- Phillips, Scott, Jacqueline Matusko, and Elizabeth Tomasovic. 2007. "Reconsidering the relationship between alcohol and lethal violence." Journal of Interpersonal Violence 22(1):66-84.
- Phillips, Scott, Jacqueline Hagan, and Nestor Rodriguez. 2006. "Brutal borders? Examining the treatment of deportees during arrest and detention." Social Forces 85(1):93-110.
- Phillips, Scott and Mark Cooney. 2005. "Aiding peace, abetting violence: Third parties and the management of conflict." American Sociological Review 70(2):334-354.

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Articles (continued)

- Phillips, Scott. 2003. "The social structure of vengeance: A test of Black's model." Criminology 41(3):673-708.
- Geiger-Oneto, Stephanie and Scott Phillips. 2003. "Driving while black: The role of race, sex, and social status." Journal of Ethnicity in Criminal Justice 1(2):1-25.
- Kan, Yee and Scott Phillips. 2003. "Race and the death penalty: Including Asian Americans and exploring the desocialization of law." Journal of Ethnicity in Criminal Justice 1(1):63-92.
- Horan, Patrick and Scott Phillips. 2003. "Theory-mapping in social research: An application to social learning theory." Pp. 289-315 in Advances in Criminological Theory, Vol. 11, Social Learning Theory and the Explanation of Crime, edited by Ronald L. Akers and Gary F. Jensen. New Brunswick, NJ: Transaction.
- Phillips, Scott, Nestor Rodriguez, and Jacqueline Hagan. 2002. "Brutality at the border? Use of force in the arrest of immigrants in the United States." International Journal of Sociology of Law 30:285-306.
- Cooney, Mark and Scott Phillips. 2002. "Typologizing violence: A Blackian perspective." International Journal of Sociology and Social Policy 22(7-8):71-104.
- Phillips, Scott and Ryken Grattet. 2000. "Judicial rhetoric, meaning-making, and the institutionalization of hate crime law." Law and Society Review 34 (3):567-606.

Other Publications

- Phillips, Scott. 2010. "Testimonial." Pages 198-199 in The Behavior of Law by Donald Black. Bingley, England (special edition; first edition 1976).
- Phillips, Scott. February 23, 2010. Issue Brief. "Hire a lawyer, escape the death penalty?" <http://www.acslaw.org/IssueBrief>
- Phillips, Scott. March 4, 2010. Blog. "The need for a public defender in the capital of capital punishment." <http://www.acslaw.org/acsblog>
- Phillips, Scott. 2009. "Racial disparities in capital punishment: Blind justice requires a blindfold." Advance: The Journal of the American Constitution Society Issue Groups 3(1):149-158 (<http://www.acslaw.org/AdvanceVol3No1>)
- Phillips, Scott. October 7, 2008. Issue Brief. "Racial disparities in capital punishment: Blind justice requires a blindfold." <http://www.acslaw.org/IssueBrief>
- Phillips, Scott. October 14, 2008. Blog. "Racial disparities in capital punishment: Desocialization offers a plausible plan to ensure equal justice." <http://www.acsblog.org/>

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Media Coverage of Capital Punishment Research (selected)

Print

- Liptak, Adam. April 29, 2008. "A new look at race when death is sought." *The New York Times*: A10.
- Turner, Allan. May 1, 2008. "Study suggests bias in death penalty cases." *The Houston Chronicle*: B3.
- Falkenberg, Lisa. May 1, 2008. "Remedying unequal punishment." *The Houston Chronicle*: B1.
- Kolkers, Claudia. May 4, 2008. "Body of evidence: Defendant's race appears to sway Harris County death sentencing." *The Houston Chronicle*: E2.
- Griffith, Kristal. Winter 2008. "Crime and Punishment." *University of Denver Magazine*: 19.
- O'Hare, Peggy. March 4, 2010. Study figures odds of killer getting death." *The Houston Chronicle*: B5.
- Research featured in the winter 2011 issue of the ASA magazine Contexts: "Choose Your Victims Wisely" (volume 10, number 1: page 6).

Internet

- Koppelman, Alex. April 29, 2008. "Racial bias in the death penalty." www.salon.com
- Weiss, Debra Cassens. April 29, 2008. "Houston has a problem with death-penalty disparities, study says." ABA Journal Law News Now. www.abajournal.com
- Death Penalty Information Center. May 5, 2008. "Study finds evidence of race-of-defendant bias in Texas death penalty." <http://www.deathpenaltyinfo.org/>
- Griffith, Kristal. May 16, 2008. "New study shows race influences death penalty cases." DU Today. <http://www.du.edu/today/stories/2008/05/2008-05-16-race.html>
- Death Penalty Information Center. October 20, 2009. "Disparities in legal representation in Harris County, Texas." <http://www.deathpenaltyinfo.org/>
- Jennings, Diane. November 10, 2009. "Professor surprised by disparity between hired and appointed counsel." The Dallas Morning News, Texas Death Penalty Blog: <http://deathpenaltyblog.dallasnews.com/>
- Griffith, Kristal. November 13, 2009. "Research shows type of legal counsel affects death penalty cases." DU Today. <http://www.du.edu/today/stories/2009/11/2009-11-13legal.html>
- Death Penalty Information Center. April 19, 2010. "Victims' social status plays influential role in death cases." <http://www.deathpenaltyinfo.org/>

Radio Interviews

- Smart City Radio: May 15, 2008. <http://www.smartcityradio.com/show/1483/transportation-capital-punishment-and-chattanooga>
- KPFT in Houston, Texas: May 6, 2008.
- KTSU in Houston, Texas: June 2, 2008.

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Conference Participation

- Phillips, Scott and Jacqueline Lapuck. 2011. "Is support for the Marshall hypothesis a methodological artifact? The social geometry of ideas as a demand characteristic." American Society of Criminology: Washington, DC.
- Cooney, Mark and Scott Phillips. 2011. "With God on one's side: The social structure of death row apologies." American Society of Criminology: Washington, DC.
- Invited participant in Michigan State University Law School's 2011 Death Penalty Conference entitled: "Moving Beyond Racial Blindsight."
- Phillips, Scott. 2010. Organizer for Author Meets Critics panel on Mark Cooney's 2009 book: "Is Killing Wrong? A Study in Pure Sociology." American Society of Criminology: San Francisco, California.
- Phillips, Scott. 2010. "Gender, media, and death in the capital of capital punishment." American Society of Criminology: San Francisco, California.
- Phillips, Scott. 2008. "Status disparities in the capital of capital punishment." American Society of Criminology: St. Louis, Missouri.
- Phillips, Scott. 2007. "Legal counsel, socioeconomic status, and death in the capital of capital punishment." American Society of Criminology: Atlanta, Georgia.
- Phillips, Scott. 2007. "Racial disparities in the capital of capital punishment." American Sociological Association: New York, New York.
- Phillips, Scott. 2006. "The vertical structure of execution: Geometrical patterns in the capital of capital punishment, 1992-1999." American Sociological Association: Montreal, Canada.
- Phillips, Scott, Jacqueline Hagan, and Nestor Rodriguez. 2006. "Brutal borders? Examining the treatment of deportees during arrest and detention." American Sociological Association: Montreal, Canada.
- Phillips, Scott, Jacqueline Matusko, and Elizabeth Tomasovic. 2005. "Reconsidering the relationship between alcohol and lethal violence." American Society of Criminology: Toronto, Canada.
- Phillips, Scott. 2005. Panel Member for Professional Development Session entitled: "Teaching experience: How much is enough?" American Society of Criminology: Toronto, Canada.
- Lockett, Elizabeth and Scott Phillips. 2005. "Burden of proof, burden of wrongful conviction: An examination of the evidence used to secure death sentences in the capital of capital punishment." Law and Society Association: Las Vegas, Nevada.
- Phillips, Scott and Michael O. Maume. 2004. "Have gun, will shoot? Disentangling weapon instrumentality from intent." American Society of Criminology: Nashville, Tennessee.
- Phillips, Scott and Mark Cooney. 2004. "Aiding peace, abetting violence: Third parties and the management of conflict." American Sociological Association: San Francisco, California.
- Phillips, Scott. 2002. "The social structure of violence: A test of Black's theory of vengeance." American Society of Criminology: Chicago, Illinois.
- Phillips, Scott. 2002. Discussant for panel on "Black's theory of conflict management." Law and Society Association: Vancouver, British Columbia.
- Phillips, Scott, Nestor Rodriguez, and Jacqueline Hagan. 2002. "Brutality at the border? Use of force in the arrest of immigrants in the United States." Southwest Sociological Association: New Orleans, Louisiana.
- Phillips, Scott. 2001. "Interviewing violent offenders: Factors related to participation in research and reliability." American Society of Criminology: Atlanta, Georgia.
- Phillips, Scott and Mark Cooney. 2001. "The forging of violence: A test of Black's theory of partisanship." American Sociological Association: Anaheim, California.
- Phillips, Scott. 2000. Organizer for Author Meets Critics panel on Mark Cooney's 1998 book: "Warriors and Peacemakers: How Third Parties Shape Violence." American Society of Criminology: San Francisco, California.
- Horan, Patrick M. and Scott Phillips. 1999. "Theory-mapping in social research: An application to social learning theory." American Society of Criminology: Toronto, Ontario.
- Cooney, Mark and Scott Phillips. 1999. "Typologizing violence: A Blackian perspective." American Sociological Association: Chicago, Illinois.
- Phillips, Scott and Ryken Grattet. 1997. "Judicial rhetoric, meaning-making, and the institutionalization of hate crime law." American Society of Criminology: San Diego, California.

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Invited Presentations

- University of Colorado Law School. 2008. “Legal disparities in the capital of capital punishment.”
- University of Denver, Humanities Institute Lecture, 2007: “Those with the capital don’t get the punishment.”
- University of Denver, Sturm College of Law, Death Penalty Awareness Week, 2006: “Is justice blind in the capital of capital punishment? The impact of race on death sentences in Harris County, Texas from 1992-2000.”
- Rice University Student ACLU, 2005: “Is justice colorblind? Death in the capital of capital punishment.”
- Rice University, Families Weekend, 2004: “Is justice colorblind? Death in the capital of capital punishment.”
- Galveston Young Lawyers Association, 2003: “Equal justice? The impact of hired and appointed counsel on capital punishment.”

Service to the University of Denver

- Member of Renew DU Initiative, Interdisciplinary Incubator
- Outside Chair of Biology Dissertation Committee (Richard Kristinsson: Mitochondrial DNA Analysis by Denaturing High-Performance Liquid Chromatography for the Characterization and Separation of Mixtures in Forensic Samples) (2011)
- Member of the Directions Initiative, Faculty Success Working Group (2011)
- Member of Social Sciences Divisional Promotion and Tenure Committee (2010)
- Speaker for “Fridays@DU” (2009 to present)
- AHSS Representative to ASEM Committee (2009 to present)
- NCAA Self-Study and Certification Process, Member of Academic Integrity Subcommittee (2009-2010)
- AHSS Representative to CORE Committee (2009-2010)
- AHSS Mentor to New Faculty (2008-2009, 2009-2010)
- AHSS Representative to PROF Award Committee (2009)
- AHSS Representative to Undergraduate Council (2006-2009)
- Department Representative to Faculty Senate (2006-2009)
 - Member of Student Relations Committee
 - Member of Tuition Exchange Task Force
- Provided assistance to DU Sexual Assault Response and Prevention Coordinator (2006-2007)
 - Presentations on sexual assault to campus groups (fraternity, residence hall)
 - Assisted in design of campus questionnaire regarding sexual assault and analyzed data
- Member of Quantitative Reasoning Lab Committee (2007)
- Facilitator for Men’s Ally Session at the 12th Annual DU Women’s Conference (2007)
- Facilitator for Men’s Ally Session at the 11th Annual DU Women’s Conference (2006)
- Member of DU Alcohol Workout Group (2006)
- Facilitator for session entitled “Safety: Improving Social Environments” at Provost’s Conference (2006)

Service to the Profession

- Organizer, Crime, Law, and Deviance Roundtables for 2008 American Sociological Association Conference
- Member, Law and Society Association Nominating Committee, 2003
- Judge, Law and Society Association Graduate Student Paper Competition, 2003

Service to the Community

- Provided research assistance to Denver’s Urban Debate League
- Analyzed quantitative data regarding race and capital punishment for Texas Defender Service (2009)
- Consulted with McGuireWoods regarding research to support habeas petition for Jose Noey Martinez (2009)
- Consulted with Faegre and Benson regarding research to support habeas petition for Brandyn Josephe Benjamin (2008)

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Referee (selected)

American Journal of Sociology; American Sociological Review; British Journal of Sociology; Criminology; Drug and Alcohol Review; Feminist Criminology; Journal of Criminal Justice; Journal of Quantitative Criminology; Journal of Research in Crime and Delinquency; Justice Quarterly; Law and Society Review; Law and Policy; National Science Foundation; Psychology, Crime, and Law; Social Science Quarterly; The Sociological Quarterly; Violence and Victims

Current Courses

Capital Punishment; Criminology; Quantitative Methods; Wrongful Conviction

Mentoring Students

- Master's Theses: Raquel Flores (Chair); Stephanie Geiger-Oneto (Chair); Theresa Jach (Reader); Laura Potter (Chair); Roderick White (Chair)
- Senior Honors Theses: Lisa Kan (Chair); Jackie Lapuck (Chair); Sara Rappaport (Chair); Rachel Tucker (Chair); Lindsay VanGilder (Reader)

Professional Affiliations

American Society of Criminology; American Sociological Association; Law and Society Association

References

Available upon request

ATTACHMENT NO. 2

Table 1. Did the Race of the Defendant Influence the Federal Death Penalty in Texas from 1988 to 2010?

	USAO Requested Authorization		AG Granted Authorization		Death Sentence Imposed	
Panel A. All Texas Districts (172 cases)	Number	Percentage	Number	Percentage	Number	Percentage
Black Defendants	18/32	56%	17/32	53%	10/31	32%
Non-Black Defendants (white, Hispanic)	14/140	10%	10/140	7%	3/140	2%
Disparities across stages	Chance of authorization being requested is about 6 times greater for black defendants than non-black defendants (56/10)		Chance of authorization being granted is about 8 times greater for black defendants than non-black defendants (53/7)		Chance of a death sentence is about 16 times greater for black defendants than non-back defendants (32/2)	
Conclusion	RACIAL DISPARITIES ORIGINATE IN THE USAO DECISION TO REQUEST AUTHORIZATION, AND ARE THEN AMPLIFIED IN BOTH OF THE SUBSEQUENT STAGES. SPECIFICALLY, THE ATTORNEY GENERAL GRANTED AUTHORIZATION IN 17 OF THE 18 BLACK DEFENDANT CASES, COMPARED TO 10 OF THE 14 NON-BLACK DEFENDANT CASES. JURIES RETURNED A DEATH SENTENCE IN 10 OF THE 17 BLACK DEFENDANT CASES IN WHICH AUTHORIZATION HAD BEEN GRANTED, COMPARED TO 3 OF THE 10 NON-BLACK DEFENDANT CASES IN WHICH AUTHORIZATION HAD BEEN GRANTED.					
	USAO Requested Authorization		AG Granted Authorization		Death Sentence Imposed	
Panel B: Northern District (29 cases)	Number	Percentage	Number	Percentage	Number	Percentage
Black Defendants	5/11	46%	5/11	46%	4/11	36%
Non-Black Defendants (white, Hispanic)	3/18	17%	3/18	17%	0/18	0%
Notes:						
1. In Panel A, the difference between the handling of black and non-black cases is statistically significant at $p < .01$ for requesting authorization, granting authorization, and death sentences. In Panel B, the difference between the handling of black and non-black cases is statistically significant at $p < .10$ for requesting and granting authorization, and statistically significant at $p < .01$ for death sentences. Statistical significance is arguably not relevant because the results are based on a population of cases rather than a random sample. Nonetheless, statistical significance is reported for the interested reader and to follow conventional practice.						
2. In Panel A, the number of cases drops from 172 to 171for the death sentence outcome because one defendant died after authorization (thus, there is no way to know if the jury would have returned a death sentence).						